

## Montana Operations Manual

# Holiday Policy

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<b>Issuing Authority</b>	Department of Administration	<b>Effective Date</b>	March 11, 2010
		<b>Last Revised</b>	March 2010

### Policy Purpose:

It is the policy of the state of Montana to provide eligible employees with legal state holidays.

### Scope:

This policy covers Montana's executive branch employees, except those employed by the Montana State Fund and the Montana university system, student interns, short-term workers, and other employees exempt from policy under MCA 2-18-103, 2-18-104, and 2-18-601(6).

This policy shall be followed unless it conflicts with negotiated collective bargaining agreements, which shall take precedence.

### Procedures:

#### A. Holidays:

The following days are legal state holidays (MCA 1-1-216):

1. New Years Day, January 1;
2. Martin Luther King Jr. Day, the third Monday in January;
3. Lincoln's and Washington's Birthdays, the third Monday in February;
4. Memorial Day, the last Monday in May;
5. Independence Day, July 4;
6. Labor Day, the first Monday in September;
7. Columbus Day, the second Monday in October;
8. Veteran's Day, November 11;
9. Thanksgiving Day, the fourth Thursday in November;
10. Christmas Day, December 25; and
11. State General Election Day.

If a holiday falls on Sunday, the Monday following is the observed holiday. If the holiday falls on Saturday, the preceding Friday is the observed holiday.

State primary election days are not legal state holidays.

#### B. Eligibility:

To be eligible for holiday benefits, an employee must be in a pay status the last regularly-scheduled working day before the holiday and the first regularly-scheduled working day following the holiday.

### **C. Holiday Benefits:**

An eligible employee shall receive holiday benefits for legal state holidays.

The holiday benefit is described, as follows:

1. The employee receives the holiday off with pay at the employee's regular rate.
2. Management may require an employee to work on a holiday or the day it is observed. If required to work on the holiday, the employee will be compensated as provided in the "Work on a Holiday" section below.
3. An employee scheduled for a day off on a day observed as a legal holiday shall receive a day off with pay either on the day preceding the holiday or on another day following the holiday in the same pay period or as requested by the employee and approved by the employee's supervisor, whichever allows a day off in addition to the employee's regularly scheduled days off (MCA 2-18-603).

Holiday benefits shall not exceed eight hours per holiday.

1. A full-time employee shall receive eight hours of holiday benefit.
2. A part-time employee shall receive the holiday benefit on a prorated basis, based on:
  - a. the part-time employee's regular schedule at the time the holiday occurs; or
  - b. the average amount of time in a pay period the employee is in a pay status when management cannot determine or has not assigned a regular schedule.

Holiday benefits are calculated based on an employee's regular schedule. For purposes of this policy, changes to an employee's schedule extending beyond one pay period are changes to the regular schedule. An employee's regular schedule may be changed:

1. by management; or
2. by an employee and approved by management, including, but not limited to, requests to work fewer hours on an ongoing basis, or requests to use leave without pay by itself or in combination with accrued paid leave.

Holiday benefits are received for the holiday or the observed holiday but not both.

Holiday pay is paid to an employee on Family Medical Leave Act (FMLA) qualifying-leave if the employee is in pay status when the holiday occurs.

#### **D. Work on a Holiday:**

##### **Non-exempt employees:**

1. An employee who is designated as non-exempt under the Fair Labor Standards Act (FLSA) and who is required by management to work on a holiday or the day a holiday is observed shall be paid according to one of the two options outlined below at management's discretion. The employee may either:
  - a. receive the regular rate for all hours actually worked on the holiday, bank the holiday benefit hours actually worked (up to the maximum of eight) and receive equivalent time off at the regular rate, to be paid as set out in Paragraph 3 below; or,
  - b. receive one and one half times the regular rate for the hours actually worked on the holiday and receive holiday benefit hours paid at the regular rate.
2. Requests to take banked holidays must be made to and approved by an employee's supervisor. Management may deny the request if the state's interest requires the employee's attendance.
3. If a banked holiday for a year ending with the final pay period for the year is not taken by March 31 in the following year, the employing agency shall cash it out. The payment will be included in the pay period that includes March 31, by paying the employee's regular rate for each hour banked. Banked holiday benefit hours are cashed out as a lump sum payment as supplemental income and taxed accordingly. Banked holiday hours recorded before December 31, 2010, are not affected by this policy.
4. Hours worked on a holiday may result in more than 40 hours in a pay status during the workweek. An employee may not receive both one and one half time pay and overtime pay for the hours worked on a holiday. The holiday benefit pay will be paid at the regular rate, whether banked or paid out.
5. An employee who does not work a regular schedule and is required to work on a holiday shall be paid at the regular rate for each hour worked on the holiday. This employee shall not receive the holiday benefit.

##### **Exempt employees:**

1. An employee who is exempt from the FLSA and who works on a holiday or an observed holiday shall receive the holiday pay and book the hours worked on the holiday as exempt compensatory time.

2. Exempt employees may not bank holiday hours after December 31, 2010. Banked holiday hours recorded before December 31, 2010, are not affected by this policy.

**E. Special Situations:**

If the employee would be eligible to receive more than 40 hours of pay because of the holiday, the agency may require the employee to take off an equivalent number of hours without pay in the same workweek to maintain 40 hours of pay for a week.

If the employee would receive less pay than usual because of the holiday, the agency may allow the employee to work additional hours in the same pay period or allow the employee to take annual leave or accrued compensatory time to maintain their usual hours of pay for a week.

When an employee transfers between agencies, without a break in service prior to a holiday, the agency to which the employee transfers shall pay for the holiday.

An agency must cash out all banked holiday hours by paying the employee at the employee's regular hourly pay when an employee transfers to another agency.

**Definitions:**

For purposes of this policy, the following definitions apply:

**Banked holiday** means the hours the payroll system records for work performed on a holiday for the employee to take at a later time as paid time off or as pay.

**Pay status** means the employee is being paid for hours worked or for annual leave, sick leave, or other paid leave, sick leave fund grants, holidays, or compensatory time.